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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the Commission's Own Motion to Conduct a Comprehensive Examination of Investor Owned Electric Utilities' Residential Rate Structures, the Transition to Time Varying and Dynamic Rates, and Other Statutory Obligations.

Rulemaking 12-06-013
(Filed June 21, 2012)

**ADMINISTRATIVE LAW JUDGE'S RULING ADDING DRAFT MATRIX OF
POSSIBLE SECTION 745 ISSUES TO RECORD**

The time-of-use (TOU) working group, formed in accordance with Decision (D.) 15-07-001, recently e-mailed to the service list a matrix (Section 745 Issues Matrix) summarizing possible additional issues for interpretation and implementation of Public Utilities Code Section 745. The Section 745 Matrix is attached to this ruling.

As described in the July 8, 2016 cover e-mail to the service list, the Section 745 Issues Matrix is "the consolidated list of the IOUs, CforAT and UCAN's questions and recommendations regarding PU Code Section 745 and other associated issues for consideration." The cover e-mail notes that it was a multiparty collaboration and that due to timing constraints the matrix does not provide comments on every item.

This ruling adds the Section 745 Issues Matrix to the administrative record as a reference document only. Although the Section 745 Issues Matrix includes

recommended outcomes and some arguments, it will not be treated as a brief or final working group report or recommendation. Appropriate procedural steps, such as formal briefing or further vetting through the TOU working group process, will be taken before any recommendations are formally adopted. In addition, some of the items on the Section 745 Issues List were briefed earlier this year. A decision on issues that were already briefed will be issued later this summer.

IT IS SO RULED.

Dated August 4, 2016, at San Francisco, California.

/s/ ANNE E. SIMON for

Jeanne M. McKinney
Administrative Law Judge

Topic	Proposed Questions Regarding Section 745 of the CPUC Code	Procedural Assessment (by PG&E)	SDG&E Recommendation	PG&E Recommendation	SCE Recommendation	UCAN'S INPUT: Given the importance of the proposed 745 questions UCAN believes that all of the parties to the proceeding (not just the working group members) should have a chance to weigh in with their perspectives - perhaps through an ALJ or an Assigned Commissioner's ruling calling for party comments. For a few of the issues, UCAN will offer our perspective, but generally we are not prepared to make recommendations at this time.	CforAT Input
Bill protection	Are customers entitled to receive bill protection for the time served on the default rate (up to 12 months), or must customers participate a full 12 months?	This question requires Commission decision on Section 745 interpretation, Working Group can make a recommendation on timing needs, however this appears to need a decision by Q3 2017, several months before the default Pilot is in final prep for implementation.	Bill Protection should be based on 12 months participation consistent with SDG&E's current bill protection policy.	The statute does not require customers to stay on the rate for a full 12 months in order to receive bill protection, it just allows the CPUC to provide bill protection for at least the first year. CPUC has discretion to interpret, based on statutory intent. Bill protection should be evaluated and provided at the conclusion of a customer's participation in a default rate. Whether that is by opting out, moving or concluding the 12 month period.	SCE recommends that Bill Protection be based on length of participation, not exceeding 12 months, which is consistent with the TOU Opt-In Pilot and projected CPP Bill Protection policy.	UCAN believes that customers who have been defaulted onto a TOU rate who opt-out of the rate within the first 12 month should receive bill protection for the time that they were on the TOU rate. There should be no denial of bill protection because a customer did not stay on the rate for a full 12 months. UCAN believes that this is an issue the Commission must examine and that the parties should have an opportunity to comment on.	CforAT generally takes the position that customers who stay on a TOU rate for less than 12 months are entitled to bill protection for the time they are on the rate. Beyond this general position, CforAT has no recommendations at this time, but agrees that this is an issue that the Commission must consider.
	How should bill protection payments be paid out? Should payments be true-up on a monthly basis, twice per year, or at the end of 12 months/time of opt-out?	This question requires Commission decision on Section 745 interpretation, Working Group can make a recommendation on timing needs, however this appears to need a decision Q3 2017, several months before the default Pilot is in final prep for implementation.	Default pilot bill protection credits should be applied at the end of the 12 month period consistent with SDG&E's current bill protection policy.	Bill protection should be evaluated and provided at the conclusion of a customer's participation during the no risk period (first 12 months) on a default rate. Whether that is by opting out, moving or concluding the 12 month period. This would occur only once, at the conclusion of their enrollment for the up to 12 months they were on the rate.	SCE recommends a one-time payment at the end of 12 months or time of opt-out.	UCAN is not prepared to offer a recommendation at this time. UCAN believes that this is an issue the Commission must examine and that the parties should have an opportunity to comment on.	CforAT has no recommendations at this time, but agrees that this is an issue that the Commission should consider.
	How do we handle moves or transfers?	This question requires Commission decision on Section 745 interpretation, Working Group can make a recommendation on timing needs, however it appears this issue can be decided in the CPUC's decision on the 2018 RDW proposals.	Consistent with SDG&E's current policy, bill protection would not apply to moves or transfers.	Bill protection would not apply to customers when the move or transfer service because the default rate will not follow them. It is our understanding that 12 months of interval data would be required given that the usage and load may vary. If customers were later defaulted (after 12 months of interval data was available) they would be eligible for bill protection at that point.	For those customers who close their account, and move outside of the territory SCE will follow today's process for customers with a closing balance/credit. For customers who close their account and relocate within SCE territory, the CPP Bill protection period does not follow the customer to the new service account. The customer restarts their 12 month bill protection period at the new service account.	UCAN is not prepared to offer a recommendation at this time. UCAN believes that this is an issue the Commission must examine and that the parties should have an opportunity to comment on.	CforAT has no recommendations at this time, but agrees that this is an issue that the Commission should consider.
	Does Section 745 require a bill comparison be provided to customers for more than a brief period prior to default TOU taking place?	This question requires Commission decision on Section 745 interpretation, Working Group can make a recommendation on timing needs. D11	No, it requires one bill comparison before default TOU and then once a year thereafter. However the RROIR decision expanded this by requiring bill comparisons to be provided twice a year starting in 2016. Given more information from the ME&O consultant and concerns such as in row 4 above about the OAT perhaps looking attractive to customers, especially before the tiered rate is flattened to 2 tiers with a narrow differential, this seems worth the CPUC reconsidering. Once before and once after seems reasonable. Customer always have the option to go online and request a rate comparison.	No, it requires one bill comparison before default TOU and then once a year thereafter. However the RROIR decision expanded this by requiring bill comparisons to be provided twice a year starting in 2016, and an ALJ Ruling later clarified that a single rate comparison in Fall 2016 to a limited test and learn group is appropriate, followed by twice a year rate comparisons to be provided in the Spring and Fall of each year.	In order for bill comparisons to be provided, customers must have 12 months of interval data. Customers who have met the interval data requirements will be provided at least one bill comparison prior to default TOU, with access to customer specific information online on a going forward basis.	UCAN is not prepared to offer a recommendation at this time. UCAN believes that this is an issue the Commission must examine and that the parties should have an opportunity to comment on.	CforAT generally takes the position that the bill comparison obligation in Section 745 is ongoing. Beyond this general position, CforAT has no recommendations at this time, but agrees that this is an issue that the Commission must consider.
Senior Residents	How long must a senior reside in the household in order to qualify the household as a senior residence?	This question requires Commission decision on Section 745 interpretation, Working Group can make a recommendation on timing needs. Presumably needs to be decided in 2018, before the default list for 2019 default can be developed with all necessary exclusions, but is only a ripe issue if the CPUC decides that any seniors experience unreasonable hardship under TOU such that they should be excluded from being defaulted at all.	They should be a full-time resident of the household. Additional details need to be resolved (e.g., certification process), but overall the process needs to be simple and easy to implement.	They should be a full-time resident of the household. Additional details need to be resolved (e.g., available data and/or certification process), but overall the process needs to be simple and easy to implement.	See Joint Utility Brief, page 14, discussing IOU billing data does not include age of occupants or head of household status, and that garnering such data would be costly and prone to error. Within the Brief, the IOUs recommend "the Commission to evaluate the study results of the aggregate pilot data and default TOU proposals when it makes the hardship determination."	UCAN is not prepared to offer a recommendation at this time. UCAN believes that the Commission must consider this issue.	CforAT has no recommendations at this time, but agrees that this is an issue that the Commission should consider. See also the additional items on how to define senior residences.
12 months of data requirement to default	Track opt-outs when customers move from one home to another from one service territory to another?	This question requires Commission decision on Section 745 interpretation, Working Group can make a recommendation on timing needs.	The opt out should not carry forward to new premise as load characteristics will likely vary.	The opt out should not carry forward to new premise as load characteristics will likely vary.	The opt out should not carry forward to a new premises.	UCAN is not prepared to make a recommendation at this time.	CforAT has no recommendations at this time, but agrees that this is an issue that the Commission should consider.
	Post default implementation, must new customers continue to receive 12 months of service on a tiered rate prior to being defaulted to a TOU rate (post education, if customer doesn't opt-out)?	This question requires Commission decision on Section 745 interpretation, Working Group can make a recommendation on timing needs.	By statute we need 12 months of interval data prior to defaulting a customer. We believe this applies to the mass default but question how this will be applied to new customers post-default.	By statute, we need 12 months of interval data prior to defaulting a customer. However such an ongoing effort does pose an operational challenge, perhaps there is a way for utilities to batch customers monthly or quarterly to limit impacts. If the CPUC wishes to shift to TOU being the standard rate at some point after the defaulting process is complete, is an amendment to the statute needed?	Isn't it reasonable to read the Section 745(c) requirements as being applicable to the landscape prior to the large-scale default TOU for all then-eligible residential customers, as opposed to a requirement triggered on a per-customer basis without a time horizon?	Before defaulting customers the statute requires 12 months of interval data.	See new default issue below. The answer to the new question may limit the impact of the answer to this question.
	At what point can TOU be the default rate for customers at time of establishing service? [NOTE: CforAT would phrase the question: At what point, if ever, can TOU...]	This question requires Commission decision on Section 745 interpretation, however it appears this issue can be decided in the CPUC's decision on the 2018 RDW proposals.	At the completion of residential default we should consider automatically placing them on the TOU rate, unless they opt-out when they start service.	At the completion of residential default we should consider automatically placing them on the TOU rate, unless they opt-out when they start service. Is an amendment to the statute needed, in order to do this or can the CPUC declare TOU to be standard rate and deem the term default to mean the initial process of moving customers from a tiered rate to TOU?	At the completion of residential default we should consider automatically placing them on the TOU rate, unless they opt-out when they start service.	As written the statute requires that before any customer can be defaulted to TOU the utility must have 12 months of interval data, therefore, there can be no default for new customers as the utilities would not have 12 months of interval data for the new customer.	See new default issue below. The answer to the new question may limit the impact of the answer to this question.

Topic	Proposed Questions Regarding Section 745 of the CPUC Code	Procedural Assessment (by PG&E)	SDG&E Recommendation	PG&E Recommendation	SCE Recommendation	UCAN'S INPUT: Given the importance of the proposed 745 questions UCAN believes that all of the parties to the proceeding (not just the working group members) should have a chance to weigh in with their perspectives - perhaps through an ALJ or an Assigned Commissioner's ruling calling for party comments. For a few of the issues, UCAN will offer our perspective, but generally we are not prepared to make recommendations at this time.	CforAT Input
Defaulting new customers after 12 months of data collection (UCAN)	If a new customer signs up for service after default TOU is implemented and chooses a tiered rate, once the utility has 12 months of interval data should the customer then be defaulted onto TOU?	<i>This question requires Commission decision on Section 745 interpretation, however it appears this issue can be decided in the CPUC's decision on the 2018 RDW proposals.</i>		Since these questions were added after the initial recommendations were formulated there was not sufficient time to develop a response. Further information can be provided at a later time if requested.	At the completion of residential default we should consider automatically placing customers on the TOU rate, unless they opt-out when they start service. If customers opt-out when they start service, they should not be re-defaulted to a TOU rate after 12 months of service.	Customers who are establishing new service, after the implementation of default TOU, should be offered a menu of rate options including a TOU rate and a tiered rate. If a customer specifically chooses a tiered rate the utility should not default a customer to TOU once they obtain 12 months of interval data. UCAN believes that this is a legal issue that all parties should have the opportunity to comment on.	
Additional default issue (CforAT)	What does "default" mean for a customer who establishes service after the initial transition to default TOU is complete? Does "default" apply only to customers who do not identify a preferred rate option at the time of initiating service, or does it also apply to customers who select a tiered rate?	<i>This question requires Commission decision on Section 745 interpretation, however it appears this issue can be decided in the CPUC's decision on the 2018 RDW proposals.</i>		Since these questions were added after the initial recommendations were formulated there was not sufficient time to develop a response. Further information can be provided at a later time if requested.	At the completion of residential default we should consider automatically placing customers on the TOU rate, unless they opt-out when they start service. If customers opt-out when they start service, they should not be re-defaulted to a TOU rate after 12 months of service.	UCAN is not prepared to offer a recommendation at this time. UCAN believes that this is an issue the Commission must examine and that the parties should have an opportunity to comment on.	CforAT has no recommendations at this time, but proposes this as a legal issue that the Commission should consider. The answer to this question will inform multiple other questions regarding ongoing default.
Excluded customers (CforAT)	What steps must IOUs take to identify customers whom the commission has ordered cannot be disconnected from service without an in-person visit from a utility representative (Decision 12-03-054)?	<i>This question requires a Commission decision on Section 745 interpretation. The Working Group can make a recommendation on optimal timing of such a decision. Presumably needs to be decided well before the default list for 2019 default can be developed with all necessary exclusions.</i>		Since these questions were added after the initial recommendations were formulated there was not sufficient time to develop a response. Further information can be provided at a later time if requested.	Currently, SCE understands the following customers to be exempt from TOU default: (1) Medical Baseline customers, (2) customers requiring 3rd party notification pursuant to subdivision (c) of PU Code 779.1, (3) customers who cannot be disconnected from service without and in-person visit from a utility representative, and (4) as determined by the Commission. SCE currently tracks customers who meet the first three requirements, but must await Commission direction on those yet to be determined other parties who will be exempt from default.	UCAN is not prepared to offer a recommendation at this time. UCAN believes that this is an issue the Commission must examine and that the parties should have an opportunity to comment on.	CforAT has no recommendations at this time, but proposes this as an issue with substantial legal implications that the Commission should consider
Excluded customers (CforAT)	Can/should IOUs seek "affirmative consent" from otherwise-excluded customers to be included in TOU rates at the same time that they take steps to identify such customers?	<i>This question requires a Commission decision on Section 745 interpretation. The Working Group can make a recommendation on optimal timing of such a decision. Presumably this should be decided well before the default list for 2019 default can be developed with all necessary exclusions.</i>		Since these questions were added after the initial recommendations were formulated there was not sufficient time to develop a response. Further information can be provided at a later time if requested.	Will SCE be required to separately market and solicit consent from customers who are exempt from default? SCE assumes affirmative consent may be in the form of a rate change request.	UCAN believes that since these are vulnerable customers special consideration needs to be given to this issue by the Commission and the parties.	CforAT has no recommendations at this time, but proposes this as an issue with substantial legal implications that the Commission should consider
Rate Schedules (CforAT)	What does it mean for the commission to "strive" to set TOU rate periods that utilize time periods that are appropriate for at least the following five years?	<i>This question appears to be related to setting TOU Periods, which is being addressed in the ongoing TOU Periods OIR (R.15-12-012), with a decision expected before the end of this year. If this question is not resolved there, a CPUC decision interpreting this portion of Section 745 is needed elsewhere, at least 6 months before the IOUs must file their 2018 RDW default rate proposals.</i>		Since these questions were added after the initial recommendations were formulated there was not sufficient time to develop a response. Further information can be provided at a later time if requested.	SCE understands the 5-year requirement to be dated from the time the rate schedule is established in order to avoid the administrative difficulties in tracking customer enrollment dates and having multiple grandfathered rates in effect.	UCAN is not prepared to offer a recommendation at this time. UCAN believes that this is an issue the Commission must examine and that the parties should have an opportunity to comment on.	CforAT has no recommendations at this time, but proposes this as a legal issue that the Commission should consider.
Proceeding Schedule (CforAT)	Under what schedule and in what form should the Commission accept input from parties on the legal issues relevant to default TOU, including the issues identified here as well as the direct issues raised by Section 745 in identifying other customer groups who will not be subject to default TOU (Section 745(c)(1)) and explicitly considering evidence addressing the extent to which hardship will be caused on identified customer groups (Section 745(d))	The TOU Working Group can make a recommendation on these scheduling issues, with Energy Division consulting with the ALJ and assigned Commissioner's office.		Since these questions were added after the initial recommendations were formulated there was not sufficient time to develop a response. Further information can be provided at a later time if requested.	In regards to addressing the question of hardship, SCE requests to defer the determination of the definition of hardship until after the opt-in pilot in order to leverage survey and other findings. However, we must be able to differentiate between lifestyle and cost related hardships. Ideally, hardship should be measurable.	The PU Code section 745 issues noted here should be resolved through a formal Commission decision and not through the advice letter process. UCAN would ask that the Assigned Commissioner and/or the Assigned ALJ consider issuing a ruling asking for party briefs or comments on the issues identified above.	CforAT has no recommendations at this time, except to note that issues of legal interpretation should be considered in Commission decisions after parties have an opportunity to be heard. It would not be appropriate for the Commission to address issues of legal interpretation through an Advice Letter process

(END OF ATTACHMENT A)